

RESOLUTION NUMBER 176
ELECTIONS TO FULFIL A VACANCY IN THE OFFICE OF WARD ALDERMAN

WHEREAS, the St. Louis City Charter is the Constitution of the City of St. Louis and the plan for the government of the city; and

WHEREAS, the Charter of the City of St. Louis was adopted by the vote of the citizens on June 30, 1914; and

WHEREAS, the Charter can only be changed by a vote of the people of St. Louis City to change or amend the Charter: and

WHEREAS, a Charter Change for the City of St. Louis requires a vote of 60% of the people voting to change the Charter; and

WHEREAS, ordinances passed by a vote of the people or the members of the Board of Aldermen cannot change or amend the City Charter; and

WHEREAS, pursuant to RSMo State Statue 122.650 Full power and authority are hereby conferred on every city in this state to provide for and regulate all elections for offices of and under such city and for the nomination of candidates for such offices; and such provision for and regulation of such elections may be effected either by charter provisions therefor adopted by the people of such city according to law, or ordinances therefor duly enacted, or by the people thereof under the power of initiative, if any, reserved in the charter of such city; and

WHEREAS, the St. Louis City Charter, Article II entitled Elections provides for the time, and conduct of St. Louis City Elections; and

WHEREAS, the St. Louis City Charter, Article VII, entitled Mayor, Section 5 entitled by who vacancy in office is filled and states in pertinent part: Whenever a vacancy occurs in the office of mayor, the president of the board of aldermen shall become mayor, and shall hold such office until a successor is elected and qualifies. Such election, if for an unexpired term, shall be at the first general city or state election held fifty days or more after such vacancy occurs; and

WHEREAS, the St. Louis City Charter, Article VIII Entitled City Officers and Employees, Section 6 entitled vacancies in elective office and states in pertinent part: Any vacancy in any elective office, except in the board of aldermen, shall be filled by appointment by the mayor until a successor is elected and qualifies. Such election, if for an unexpired term, shall be at the first general city or state election held fifty days or more after such vacancy occurs. The Comptroller is one of those elective offices; and

WHEREAS, law in Missouri very clear that State Law govern the election of municipal officers at general election. Therefore, if the Mayoral or Comptroller election to fulfil a vacancy is held during a State Election the Election would be controlled by State Law not the Charter or any ordinance passed by the Board of Aldermen or the people; and

WHEREAS, St. Louis City Charter, Article IV, entitled Board of Aldermen, Section 5 entitled Vacancies refers to vacancies in the office of ward aldermen and states in pertinent part: (a) When a vacancy occurs in the office of ward alderman, one hundred and eighty (180) days or more prior to a city general election, such vacancy shall be filled through special election by the qualifying voters of the ward represented by the vacating alderman; and

WHEREAS, the individual elected shall serve for the remainder of the unexpired term or until the next general city election, whichever shall occur first, at which time such office shall again be filled according to law. Where such special ward election is required for an abbreviated term it shall be held no sooner than seventy-five (75) days nor later than ninety (90) days after the occurrence of the vacancy and there shall be no primary election preliminary thereto. In such case the board of election commissioners shall accept and process the names of candidates representing the established political parties, as such parties are defined in Section 120.140-2. Missouri Revised Statutes, 1969 [RSMo 120.140(2) (1969)—now repealed], or as amended, which are certified by the respective city central committees of the aforesaid parties, as their chosen respective candidates to stand for election to fill the vacancy; and

WHEREAS, persons desiring such party certification shall conform to all the requirements of the revised code of the City of St. Louis required for primary nominations, except that the time limitation contained in the aforesaid revised code of the City of St. Louis shall not be observed. The certification herein provided shall be delivered to the board of election commissioners by the aforesaid several city central committees and

by said board shall be receipted, not less than thirty (30) days before the date of the special election. Persons desiring to stand for election as non-partisan candidates shall file nomination petitions signed in the aggregate for each candidate by ten percent (10%) of the qualified voters in the respective ward who voted at the next preceding mayoral general election. The primary and general elections to fill aldermanic vacancies otherwise than herein provided, shall be subject to all other existing city and state laws pertaining to the provisions for and conduct of elections in the City of St. Louis.

(b) All provisions of the city charter and ordinances and rules thereunder, or parts thereof, inconsistent with this amendment are hereby repealed; and

WHEREAS, law in Missouri and the St. Louis City Charter is very clear that the Charter controls the special election to replace the vacancy in the office of ward alderman. The Charter specifically, forbids a primary election in the special election to replace the vacancy in the office of ward alderman, mandates the board of election commissioners to accept and process the names of candidates representing the established political parties, which are certified by the respective city central committees of the aforesaid parties, as their chosen respective candidates to stand for election to fill the vacancy, mandates that the certification herein provided shall be delivered to the board of election commissioners by the aforesaid several city central committees and said board shall be receipted, and most importantly mandates that persons desiring to stand for election as non-partisan candidates shall file nomination petitions signed in the aggregate for each candidate by ten percent (10%) of the qualified voters in the respective ward who voted at the next preceding mayoral general election; and

WHEREAS, the sponsor of this resolution has been notified that the St. Louis City Board of the Elections Commissions intends to have an election to replace the vacancy of ward alderman in the 28th Ward by having a non-partisan election under proposition D also known as **Ordinance 71410** while the very provisions of the St. Louis City Charter, Article IV, entitled Board of Aldermen, Section 5 entitled Vacancies seems to require a partisan election; and

WHEREAS, St. Louis City Charter Article II, Section 7 entitled Conduct of elections states **except as in this charter otherwise provided**, all elections shall be held and proceedings had in relation thereto as may be provided by law or ordinance; and

WHEREAS, it is imperative that the laws of the City of St. Louis Charter must be correctly followed as it relates to the elections of its Mayor, Comptroller and members of the Board of Aldermen.

NOW THEREFORE BE IT RESOLVED, that this Honorable Board of Aldermen require the members of the Board of Election Commission along with the City Counselor appear before a committee of the Board of Aldermen to answer questions regarding the upcoming election in Ward 28 to fulfill the vacancy for that position as it pertains to the City Charter and **Ordinance 71410** also known as Proposition D.

Introduced this 11th day of February 2020 by:
The Honorable Sharon Tyus, Alderwoman 1st Ward

Adopted this XXX day of XXX, 2022 as attested by:

Terry Kennedy
Clerk, Board of Aldermen

Lewis E. Reed
President, Board of Aldermen